

REMARKS

1. In response to the Office Action mailed August 15, 2003, Applicants respectfully request reconsideration. Claims 1-44 were last presented for examination in this application. All claims were rejected in the outstanding office action. By the foregoing amendments, claims 1, 2, 4, 6, 7, 10, 16-21, 26, 27, 29 and 38 have been amended. No claims have been canceled or added. Thus, upon entry of this paper, claims 1-44 will be pending in this application. These amendments make explicit that which is implicit in the claims. Accordingly, Applicants assert that the foregoing Amendments do not narrow the scope of the claims in any way.

2. Based only on the following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Rejections Under 35 Under U.S.C. §103(a)

3. The Examiner has rejected claims 1-44 under 35 USC 103(a) as being unpatentable over U.S. Patent No. 5,594,858 to Blevins (hereinafter "Blevins"). Applicants respectfully disagree.

4. The Examiner asserts that Blevins substantially teaches Applicants' invention as recited in Applicants' independent claims 1, 20, 29 and 39. The Examiner acknowledges that Blevins fails to teach "providing one or more identifiers related to the use of a probe array" (claim 1), an "experiment manager" (claims 20 and 39), and that the claimed template "is created for [a] biological experiment with [] probe arrays" (claim 29). The Examiner explains, however, that the terms "probe array," "biological experiment," and "experiment manager" recited in Applicants' independent claims have been interpreted to be the same as unrelated terms used in Blevins because Applicants failed to define such claim terms in the noted claims.

5. Applicants respectfully assert that the Examiner has failed to properly interpret Applicants' claims. It is well settled that the terms of a claim are to be construed as defined in the specification. Where "words [are] defined in the specification [, they] should be given

the same meaning in the claims.” *Amazon.com Inc. v. Barnesandnoble.com Inc.*, 239 F.3d 1343 (Fed. Cir. 2001). Thus, “the PTO [is to] appl[y] to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in applicant’s specification.” *In re Morris*, 127 F.3d 1048, 1054-55 (Fed. Cir. 1997). The USPTO has provided instructions consistent with the caselaw: “The words of a claim must be given their plain meaning unless applicant has provided a clear definition in the specification. It is only when the specification provides definitions for terms appearing in the claims that the specification can be used in interpreting claim language.” (See, MPEP §2111.01, citing *In re Vogel*, 422 F.2d 438, 441, 164 USPQ 619, 622 (CCPA 1970)). “During patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification. (See, MPEP §2111; emphasis added.)

6. Applicants direct the Examiner to Applicants’ application in which the noted and other terms of the claims have been clearly defined. Take, for example, the term “probe array” which has been misinterpreted by the examiner in connection with a number of claims. This term is described in detail throughout Applicants’ specification, including but not limited to, paragraphs 2-4 and 17-21. Other terms misinterpreted by the Examiner include at least the terms “biological experiment,” “experiment manager,” “attributes” and “identifiers.”

7. This failure to properly interpret the terms of Applicants’ claims has lead the Examiner into taking the unsupported position that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Blevins to achieve Applicants’ claimed invention. However, Applicants respectfully assert that Blevins, which is directed to user templates for process control applications, neither discloses, teaches nor suggests Applicants’ invention as recited in independent claims 1, 20, 29 and 39 when such claims are properly interpreted.

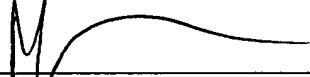
8. The dependent claims depend directly or indirectly from their respective base claim and are allowable for at least the same reasons as those noted above. Further, Applicants

submit that each of these dependent claims are also patentable in and of themselves because they each recite features that are not anticipated nor rendered obvious by the art of record.

CONCLUSIONS

9. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

Respectfully submitted,
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